

**SCHOOLS & LIBRARIES
FEDERAL UNIVERSAL SUPPORT**

The May 7, 1997 decision by the FCC adopted the Joint Board's recommendation that all eligible schools and libraries should receive discounts between 20% and 90% on all telecommunications services, Internet access, and internal connections provided by telecommunications carriers, subject to a \$2.25 billion annual cap. Economically disadvantaged schools and libraries and those located in high cost areas, will receive greater discounts. This memo addresses basic questions - how does the universal service support mechanism work for schools and libraries?

Who is eligible for the discounts?

- ◆ Any telecommunications carrier, even one that does not qualify as an "eligible telecommunications carrier" under other universal support mechanisms, is eligible for support for services provided to schools and libraries.
- ◆ Non-telecommunications carriers are eligible for universal service support for providing covered services for eligible schools, libraries and consortia including those entities. They are eligible for universal service for support for providing Internet access and installation and maintenance of internal connections.

What qualifying restrictions are placed on telecommunications carriers?

- ◆ Section 254(h)(1)(B) requires that telecommunications carriers make services available, at the lowest corresponding prices throughout their geographic service area, to all schools and libraries located in the geographic area served by the carriers. Geographic service area is the area in which a telecommunications carrier is seeking to serve customers with any of its services covered by section 254(h)(1)(B). Additionally, however, the FCC does not limit service areas for schools and libraries in which a telecommunications carrier or a subsidiary or affiliate owned or controlled by it can choose to provide service.

What qualifying restrictions are placed on schools and libraries ?

- ◆ 1) Schools:
 - a) must meet the statutory definition of an elementary or secondary school found in the Elementary and Secondary Education Act of 1965 (public or private or tribal);
 - b) must not operate as a for-profit business;
 - c) must not have an endowment exceeding \$50 million.
- 2) Libraries:
 - a) must be eligible for assistance from a State library administrative agency under the Library Services and Technology Act
 - b) must not operate as a for-profit business.
- A library's eligibility for universal service funding will depend on its funding as an independent entity. Institutions of higher education are not eligible for universal service support. An academic library will be eligible only if its funding is independent of the funding of any institution of higher education. By independent, it is meant that the budget of the library is completely separate from any institution of learning.
- Connections between eligible and ineligible institutions can be purchased by an eligible institution subject to the discount as long as the connection is used for the educational purposes of the eligible institution.
- ◆ Telecommunications services and network capacity provided to schools and libraries under section 254(h) may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.
- ◆ Schools and libraries must make a bona fide request for services within the definition of universal service.
- ◆ Any such services requested by schools and libraries must be used for educational purposes.

Who gets the reimbursement for allowable discounts?

- ◆ Providers of telecommunication services receive the discounts from an independent federal fund administrator. Telecommunications carriers may subcontract qualifying non-telecommunications services to non-telecommunications carriers. It is expected that non-telecommunications carriers will compete to provide internal connections to schools and libraries by entering partnerships and joint ventures with telecommunications carriers.

- ◆ Internet service providers may subcontract with IXC's and LEC's that were not already providing Internet access to begin to provide such access to the Internet. Small businesses are encouraged to form such joint ventures. (It is expected that resulting competition will generate low pre-discount prices for schools and libraries by this indirect participation by non-telecommunications carriers.)
- ◆ Section 253(a) provides that no state or local statute, regulation, or requirement may "prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." Section 253(d) empowers the Commission to preempt any state or local statute, regulation, or legal requirement that prohibits any entity from providing interstate or intrastate telecommunications services.

What qualifies for discounting?

- ◆ Section 254 emphasizes affordable access from *classrooms*, supporting the FCC's broad inclusion of services qualifying for discounts. Supported services are defined in terms of "telecommunications services", "Special" or "additional" services. Examples include:
- ◆ Internet Access - basic conduit, i.e., non-content access from the school or library to the backbone Internet network, including the communications link to the Internet service provider, whether through dial-up access or via a leased line, the links to other Internet sites via the Internet backbone, generally provided by an Internet service provider for a monthly subscription fee, and electronic mail.
- ◆ Non-telecommunication services such as information services and information storage needed to access the Internet, installation and maintenance of internal connections, including routers, hubs, network file servers, wireless LANs, their installation and basic maintenance (since they are needed to switch and route messages, software necessary for operations of file servers), data links and associated services necessary to provide classrooms with access to educational materials.
- ◆ Transmission of information as a common carrier.
- ◆ Transmission of information as part of a gateway to an information service, where that transmission does not involve the generation or alteration of the content of information but may include data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access information services that do not affect the presentation of such information services to users.
- ◆ Electronic mail services (e-mail).

Additionally:

- ◆ Examples of items *not* supported include hardware such as PC's (unless programmed to operate as network switch or network file server), fax machines or modems. (they are not necessary to transmit information to individual classrooms). No universal service support will be provided for asbestos removal.
- ◆ Schools and libraries may not be forced by the provider of internal connections to select a particular provider for other services. If a carrier does not currently charge for the use of internal connections, it should not be entitled to begin charging for such use if the school or library selects an alternate service provider.

Do bundled packages qualify for discounts?

- ◆ First, if a telecommunications carrier bundles access with a package of content that is otherwise available free of charge on the Internet because the content is advertiser-supported, bundling that content with Internet access will not permit the telecommunications carrier to recover any additional remuneration other than the fee for the access.
- ◆ Second, if the telecommunications carrier offers other Internet users access to its proprietary content for a price (non-discount item), it may treat the difference between that price and the price it charges for its access only package as the price of non-content internet access (discount qualifying).
- ◆ Third, if a telecommunications carrier providing Internet access offers a bundled package of content that it does not offer on an unbundled basis and thus, the fair price of the conduit element cannot be ascertained readily, the school or library may receive support for such an Internet access package only if it can affirmatively show that the price of the carrier's Internet access package was still the most cost-effective manner for the school or library to secure basic, conduit access to the Internet.
- ◆ Schools and libraries may contract with the same entity for both supported and unsupported services and still receive support only if any purchasing agreement covering eligible services specifically prices those services separately from ineligible services so that it will be easy to identify the purchase amount that is eligible for a discount. They may not receive support for contracts that provide only a single price for a package that bundles services eligible for support with those that are not eligible for support.

What about advance payment for multi-year contracts?

- ◆ While eligible schools and libraries should be able to enter into pre-paid/multi-year contracts for supported services, the fund administrator will only commit funds to cover the portion of a long-term contract that is scheduled to be delivered and installed during the funding year.

- ◆ Schools and libraries may structure their contracts so that payment is required on at least a yearly basis or they may enter into contracts requiring advance payments for multiple years of service. If they choose the advance payment method, they may use their own funds to pay full price for the portion of the contract exceeding one year (pro rata), and may request that the service provider seek universal service support for the pro rata annual share of the pre-payment. The eligible school or library may also request that the service provider rebate the payments from the support mechanisms that it receives in subsequent years to the school or library, to the extent that the school or library secures approval of discounts in subsequent years from the administrator.

What about contracts?

- ◆ **Contracts Signed Before Competitive Bidding is in Place** (Application site is available with NECA): An eligible school or library is not required to comply with the competitive bidding requirement for any contract for telecommunications services that it signs after November 9, 1996 and before the competitive bidding system is operational, but only if that contract covers only services provided to the school or library before December 31, 1998. The competitive bidding system will be considered fully operational when both the Universal Service Administrator is ready to accept and post requests for service from schools and libraries on a website and the website may be used by potential service providers. A notice will be published in the Federal Register identifying the exact date that the competitive bidding system will be fully operational.
- ◆ **Services Provided Before January 1, 1998 and Cap:** Only services provided to schools and libraries after January 1, 1998 will be eligible for Universal Service discounts. Schools and libraries must comply with the application process before being assured of receiving funding.

What are the discount levels?

- ◆ Section 254(h)(1)(B) requires all telecommunications carriers serving a geographic area to provide, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), such services to schools and libraries for educational purposes at rates *less than the amounts charged for similar services to other parties*. The discount shall be an amount that the FCC, with respect to interstate services, and the states, with respect to intrastate services, determine is *appropriate and necessary to ensure affordable access to and use of such services by such entities*.
- ◆ The pre-discount price of service is the total amount telecommunications carriers will receive for services they sell to schools and libraries: the sum of the discounted price paid by a school or library and the discount amount that the carrier can recover from universal service support mechanism for providing such services.

- ◆ Telecommunications carriers must offer services to schools and libraries at prices no higher than the lowest price it charges to similarly situated non-residential customers for similar services ("lowest corresponding price"). This lowest corresponding price is the upper limit on the price carriers can charge schools and libraries. For purposes of determining the lowest corresponding price, similar services include those provided both under contract as well as under tariff. However, providers need not offer the same lowest corresponding price to different schools and libraries in the same geographic service area if they are not similarly situated and subscribing to a similar set of services. Providers may offer prices above the prices charged to other similarly situated customers when those providers can show they face demonstrably and significantly higher costs to serve the school or library seeking service. (The FCC expects state commissions to employ these same standards when evaluating differences between customers of intrastate services.)
- ◆ Schools and libraries may request a lower rate (from the FCC or state commissions) if they believe the rate offered by the carrier is not the lowest corresponding price. Carriers may request higher rates if they believe that the lowest corresponding price is not compensatory.
- ◆ Discounts will range from 20% to 90% correlated to indicators of economic disadvantage (using eligibility for national school lunch program) and low/high cost area designations. Eligible schools and libraries are classified as high or low cost depending on whether they are located in a rural or an urban area.
 - Rural areas are defined in accordance with the definition adopted by the Department of Health and Human Services' Office of Rural Health Policy (ORHP/HHS), which uses the Office of Management and Budget's (OMB) Metropolitan Statistical Area (MSA) designation of metropolitan and non-metropolitan counties adjusted by the most currently available Goldsmith Modification, which identifies rural areas within large metropolitan counties. Schools and libraries will need only to consult those lists to determine whether they are located in rural areas for purposes of the universal service discount program.
 - Schools may use either an actual count of students eligible for national school lunch program or federally-approved alternative mechanisms to determine the level of poverty. Schools choosing not to use actual counts for national lunch programs may use only the federally-approved alternative mechanisms contained in Title I of the Improving America's Schools Act, which equate one measure of poverty with another. (These alternative mechanisms permit schools to choose from among existing sources of poverty data a surrogate for determining the number of students who would be eligible for the national school lunch program.

- ◆ A library's level of poverty is calculated on the basis of school lunch eligibility in the *public* school district in which the library is located. (The procurement officer responsible for ordering telecommunications and other supported services for a library must obtain from the school district's administrative office the percentage of students eligible for the national school lunch program in the district in which the library is located.)
- ◆ Discount levels for libraries located in towns which do not have schools, which generally must send their children to other towns to attend school, will be based on an average of the percentage of students eligible for the school lunch program in each of the school districts in which the town's children attend school.
- ◆ The following matrix is adopted for schools and library discounts:

SCHOOLS AND LIBRARIES DISCOUNT MATRIX			DISCOUNT LEVEL
% of Students eligible for national school lunch program	Estimated % of US schools in category	Urban discount %	Rural Discount %
<1	3	20	25
1-19	31	40	50
20-34	19	50	60
35-49	15	60	70
50-74	16	80	80
75-100	16	90	90

- ◆ Information about the universal service discounts for which schools and libraries are eligible, based on their level of poverty and rural status, must be posted on the same website as that on which schools' and libraries' RFPs will be posted. Actual discounts will be calculated and posed on the website.

Who sets and funds the discounts?

- ◆ The FCC, with respect to interstate services, and the states, with respect to intrastate services, establish discounts on designated services provided to eligible schools and libraries.
- ◆ The FCC adopts funding discounts on both interstate and intrastate services. The FCC will adopt rules providing federal funding for discounts for eligible schools and libraries on both interstate and intrastate services to the levels discussed. The FCC requires states to set intrastate discounts at least equal to the discounts on interstate services as a condition of receiving federal universal service support for schools and libraries within the states. (States may request a waiver on a temporary basis and only with unusually compelling cases.)

Who applies for the discounts?

- ◆ Eligible schools and libraries seek competitive bids for all services eligible for discounts.

They are not required to select the lowest bids offered, although price should be the primary factor, but have maximum flexibility to take service quality into account and to choose the offering or offerings that meets their needs "most effectively and efficiently". Reasonable factors in evaluating cost effectiveness include prior experience, past performance; personnel qualifications, including technical excellence; management capability, including schedule compliance; and environmental objectives.

The FCC does not exempt schools or libraries from compliance with any state or local procurement rules with which they must otherwise comply.

- ◆ Schools and libraries may join consortia which includes other eligible schools and libraries, rural health care providers, and public sector (governmental) customers to secure cost-based, pre-discount prices for services they need.

If the consortia includes ineligible private sector members, schools and libraries will not be eligible to receive universal service discounts unless the pre-discount prices of any interstate services that such consortia receive from ILECs are generally tariffed rates.

What are some of the items required for applications?

- ◆ As a condition of receiving support, carriers are required to certify that the price they offer to schools and libraries is no greater than the lowest corresponding price based on the prices the carrier has previously charged or is currently charging in the market.
- ◆ Schools and libraries will be required to comply with certification requirements and adopt plans for securing cost-effective access to and use of services purchased from telecommunications carriers.

- ◆ The procurement officer responsible for ordering services for a school or library must certify its degree of poverty to the universal service administrator. The percentage of students in *each of a district's schools* eligible for the national school lunch program (or alternative mechanism discussed previously) must be certified. The school district or state may decide to compute discounts on individual school basis or compute an average discount; in either case, the state or the district shall strive to ensure that each school receives the full benefit of the discount to which it is entitled.
- ◆ Libraries are able to compute discounts on either an individual branch basis or based on an average of all branches within the system. If individual branches within a library system are located in different school districts, the procurement officer responsible for ordering telecommunications and other supported services for the library system must certify to the administrator the percentage of students eligible for the national school lunch program in each of the school districts in which its branches are located.
- ◆ Eligible schools and libraries will be required to: (1) conduct internal assessments of the components necessary to use effectively the discounted services they order; (2) submit a complete description of services they seek so that it may be posted for competing providers to evaluate; and (3) certify to certain criteria under penalty of perjury.
- ◆ Applications must include a technology inventory/assessment, providing at a minimum, the following information:
 - (1) the computer equipment currently available or budgeted for purchase for the current, next, or other future academic years, as well as whether the computers have modems and, if so, what speed modems;
 - (2) the internal connections, if any, that the school or library already has in place or has budgeted to install in the current, next, or future academic years, or any specific plans relating to voluntary installation of internal connections;
 - (3) the computer software necessary to communicate with other computers over an internal network and over the public telecommunications network currently available or budgeted for purchase for the current, next, or future academic years;
 - (4) the experience of and training received by the relevant staff in the use of the equipment to be connected to the telecommunications network and training programs for which funds are committed for the current, next, or future academic years;
 - (5) existing or budgeted maintenance contracts to maintain computers; and
 - (6) the capacity of the school's or library's electrical system to handle simultaneous users.
- ◆ Schools and libraries must prepare specific plans for using these technologies, both over the near term and into the future, and how they plan to integrate the use of these technologies into their curriculum.
- ◆ FCC will require independent approval of an applicant's technology plan, ideally by a state agency that regulates schools or libraries.

- ◆ Schools and libraries must certify that they have funds committed for the current funding year to meet their financial obligations set out in their technology plans.
- ◆ The application must describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids.

How is the applicant's information made available for public review?

- ◆ The application will be posted, including the description of the services sought, on a website for all potential competing service providers to review and submit bids in response, as if they were request for proposals (RFP's).
- ◆ Posting will be in such a fashion as to enable providers to search among potential customers by zip code, number of students (schools) or patrons (libraries), number of buildings, and other data received in the applications. Entities will be required to wait four weeks after a description of the services they seek has been posted on the school and library website before they may sign any binding contracts for discounted services.
- ◆ Sufficient information will be posted to allow providers bidding on services to calculate the applicable discounts.

Who administers the discount payments?

- ◆ Universal Service Fund Administrator/subcontractor

How is funding distributed?

- ◆ Once they have signed a contract for discounted services, the school, library, or consortium including such entities send a copy of that contract to the administrator's subcontractor with an estimate of the funds that it expects to need for the current funding year as well what it estimates it will request for the following funding year. Assuming there are sufficient funds, the subcontractor shall commit the necessary funds for the future use of the particular requestor and notify the requestor that its funding has been approved.
- ◆ Once the school, library or consortium including such entities has received approval of its purchase order, it may notify the provider to begin service.
- ◆ Once the school, library or consortium has received service from the provider, it must notify the administrator to approve the flow of universal service support funds to the provider.

What are the Caps and Triggers of discounts?

- ◆ There will be an annual cap of \$2.25 billion on universal service support for schools and libraries. Such support will be committed on a first-come-first-served basis. The funding year will be the calendar year and requests for support will be accepted beginning on the first of July for the following year.
- ◆ Eligible schools and libraries will be permitted to submit funding requests once they have made agreements for specific eligible services, and administrator will commit funds based on those agreements until total payments committed during a funding year have exhausted any funds carried over from previous years and there are only \$250 million in funds available for the funding year. Thereafter, a system of priorities will govern the distribution of the remaining \$250 million.
- ◆ Once there is only \$250 million in funds available to be committed in a given funding year, only schools and libraries that are most economically disadvantaged and have not yet received discounts from the universal service mechanism in the previous year would be granted guaranteed funds until the cap is reached.
- ◆ For the funding period beginning 1/1/98 and ending 6/98, the fund administrator will only collect as much as required by demand, but in no case more than \$1 billion.
- ◆ If less than \$2.25 billion is spent in calendar year 1998, then no more than half of the unused portion of the funding authority for calendar year 1998 shall be spent in calendar year 1999.
- ◆ The administrator will collect \$100 million per month for the first three months of 1998 and will adjust future contribution assessments quarterly based on its evaluation of school and library demand for funds, within the limits of the spending caps established.
- ◆ The total level of the fund administrator's commitments, as well as the day that only \$250 million remains available under the cap in a funding year, will be made publicly available on the administrator's website on at least a weekly basis.

What about audits?

- ◆ Schools and libraries, as well as carriers, are required to maintain appropriate records necessary to assist in future audits.
- ◆ Routine audits may be conducted, as well as audits resulting from suspicions of fraud or other illegal conduct.

July 17, 1997
Staff Report
Montana PSC

RURAL HEALTH CARE PROVIDERS FEDERAL UNIVERSAL SERVICE SUPPORT

On May 7, 1997, the FCC adopted the Universal Service Order funding Congress's universal service goals. The order requires that public and non-profit rural health care providers have access to telecommunications services necessary for the provision of health care services at rates comparable to those paid for similar services in urban areas. The order establishes a support mechanism for these services subject to a \$400 million annual cap.

*Congress recognized that the provision of health care in rural areas often suffers from a lack of access to medical specialists and information. Telehealth can greatly increase such access, but many rural health care providers are discouraged from using it by the high costs for telecommunications services. The FCC's order is designed to lessen this barrier to the use of telehealth.

How much federal funding is available to support eligible rural health care providers?

- ◆ There will be a cap of \$400 million per year on total universal service telehealth spending. The amount of the cap was based on an estimate of what it would cost if every eligible health care provider obtained universal service support for T-1 service and for limited toll free access to an Internet service provider.

When are the funds available?

- ◆ Universal service funds will be available for eligible health care providers beginning on January 1, 1998.

Which health care providers are eligible for universal service benefits?

- ◆ Public or non-profit health care providers located in rural areas are eligible for universal service benefits. The term health care provider means post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools; community health centers or health centers providing health care to migrants; local health departments or agencies; community mental health centers; not-for-profit hospitals; rural health clinics; and consortia of health care providers consisting of one or more entities previously described.

- ◆ Additionally, all public and non-profit health care providers that cannot obtain toll-free access to an Internet service provider will be eligible for support for limited toll-free access.
- ◆ Rural home care providers do not fall within the definition of health care providers and are *not* eligible for universal service support.

What is a rural area eligible for universal service benefits?

- ◆ Rural area is a nonmetropolitan county or county equivalent, as defined by the Office of Management and Budget (OMB), or any census tract or block numbered area, or contiguous group of such tracts or areas, within a Metropolitan Statistical Area (MSA) listed metropolitan county as identified in the most recent Goldsmith Modification published by the Department of Health and Human Services' Office of Rural Health Policy (ORHP/HHS).
- ◆ This same definition of rural areas will be used both to determine whether a health care provider is located in "rural areas of a state" and to designate the "comparable rural areas" needed to calculate the credit or reimbursement due a carrier providing supported services.

What are the levels of support?

- ◆ A telecommunications carrier shall...provide telecommunications services...to any public or non-profit health care provider...*at rates that are reasonably comparable to rates charged for similar services in urban areas in that state*, a rate no higher than the highest tariffed or publicly available rate (excluding distance-based charges) actually being charged to a commercial customer within the jurisdictional boundary of the nearest large city (having a population of at least 50,000, measured point-to-point from the health care provider's location to the closest point on that city's jurisdictional boundary) in the state. A telecommunications carrier may not charge a rural health care provider a rate higher than the urban rate for a requested service.

What telecommunications services are supported?

- ◆ Universal service funds will cover distance charges for the following telecommunications services:
 - Commercially available telecommunications services of bandwidths up to and including 1.544 Mbps, or the equivalent transmission speed, but not higher speeds. (1.54 Mbps is equivalent to a T-1, so, for example, an eligible health care provider could choose a T-1, a quarter T-1, an ISDN line, or a satellite connection at supported rates.)
 - Access to an Internet service provider for any public or non-profit health care provider that does not have toll free access. Universal service support per month will be the lesser of \$180 of toll charges or the amount of toll charges incurred for 30 hours of access to an Internet service provider.
- ◆ Many telecommunications carriers charge a per-mile fee for their services. These mileage charges make up the bulk of the difference between the telecommunications costs of rural health care providers and those of urban health care providers. Telecommunications carriers must charge rural health care providers a rate for a supported service that is no higher than the highest tariffed or publicly available rate charged by a carrier to a commercial customer for a similar service in the state's closest city with a population of at least 50,000. Both originating and terminating telecommunications services are supported when billed to the eligible health care provider.
- ◆ The FCC clarified that the support mechanisms support telecommunications services, not the particular facilities over which such services are provided. Therefore, services operating within the bandwidth limitation may be carried over facilities capable of carrying services at higher bandwidths, so long as the provisions for calculating support set forth in the Order are followed. Accordingly, for example, using Frame Relay Service, Private Line Transport Service, ISDN, satellite communications, unlicensed spread spectrum, non-consumer, point-to-point services, and similar services, when provided by a telecommunications carrier at speeds not exceeding 1.544 Mbps, and requested and certified as necessary by an eligible health care provider, will be eligible for support.

What are some examples of non-supported services?

- ◆ The acquisition of customer premises equipment such as computers and modems is not supported. Data links and associated services that meet the statutory definition of information services, because of their inclusion of protocol conversion and information storage, are not eligible for support under section 254(h)(1)(A).
- ◆ The FCC determined that although infrastructure development (including network build out and non-wireline technologies) is not a telecommunications service within the scope of 254(h)(1)(A), they do have the authority to establish rules to implement a program of universal service support for infrastructure development as a method to enhance access to advanced telecommunications and information services under section 254(h)(2)(A), as long as such a program is competitively neutral, technically feasible, and economically reasonable. The FCC will issue a Public Notice regarding whether and how to support infrastructure development needed to enhance public and not-for-profit health care providers' access to advanced telecommunications and information services. The FCC will revisit the list of supported services in 2001, unless changing circumstances require expedited review.

Who applies for the funding assistance?

- ◆ Health care providers will submit descriptions of services requested to the universal service administrator designed by the FCC to process requests for support. The applications will be posted on a universal service website. Telecommunications carriers may submit bids for the provision of the requested services. Eligible health care providers will not receive universal service funds directly but as discounts on their charges from telecommunications carriers.

How are applications filed?

- ◆ Eligible health care providers shall be required to seek competitive bids for all services eligible for support by submitting their bona fide requests for services to the Fund Administrator. The Administrator shall post the descriptions of requested services on a website so that potential providers can see and respond to them. The request may be as formal and detailed as the health care provider desires or as required by any applicable federal or state laws or other requirements. The request shall contain information sufficient to enable the carrier to identify and contact the requester and to know what services are being requested. The posting of the application will satisfy the competitive bidding requirement for purposes of the FCC universal service rules; however, the submission of a request for posting is not a substitute for any additional and applicable state, local or other procurement requirements.
- ◆ Applications will be accepted beginning on July 1 of the year preceding the January 1 funding date. Support will be committed on a first-come-first-served basis. Health care providers must file new funding requests for each funding year.

What does the application require?

- ◆ Health care providers are required to certify to the following conditions:
 - 1) that the requester is a public or nonprofit entity that falls within one of the seven categories set forth in the definition of health care provider section;
 - 2) that the requester is physically located in a rural area; or that the requester cannot obtain toll-free access to an Internet service provider;
 - 3) that the services requested will be used solely for purposes reasonably related to the provision of health care services or instruction that the health care provider is legally authorized to provide;
 - 4) that the services will not be sold, resold, or transferred;
 - 5) if the services are being purchased as part of an aggregated purchase with other entities or individuals, the full details of any such arrangement governing the purchase, including the identities of all co-purchasers and the portion of the services being purchased by the health care provider;
 - 6) that it is ordering the most cost-effective method(s) of providing the requested services.

What happens after a rural health care provider selects a telecommunications carrier?

- ◆ The rural health care provider shall certify to the Fund Administrator that the service chosen is, to the best of the health care provider's knowledge, the most cost-effective service available. The provider shall submit to the Administrator copies of the other responses or bids received in response to its request for services. Health care providers may take quality of service into account in considering bids and may choose the offering or offerings that they find most cost-effective. After being selected, the carrier shall certify to the Administrator the urban rate, the rural rate, and the difference sought as an offset against the carrier's universal service obligation. Health care providers must file their contracts with the Administrator.

What about multi-year contracts?

- ◆ Eligible health care providers are permitted to enter into pre-paid/multi-year contracts for supported services; however the Administrator will only commit funds to cover the portion of a long-term contract that is scheduled to be delivered during the funding year. Eligible health care providers may either structure their contracts so that payment is required on at least a yearly basis or, if they wish to enter into contracts requiring advance payment for multiple years of service, they may use their own funds to pay full price for the portion of the contract preceding one year (pro rata), and request that the service provider rebate the payments from the support mechanism that it receives in subsequent years to the eligible health care provider.

What about aggregating purchases or sharing networks?

- ◆ Health care providers may enter into aggregate purchasing and maintenance agreements for telecommunications services with other entities and individuals, as long as the entities not eligible for universal service support pay full rates for their portion of the services. However, eligible health care providers participating in consortia that include private sector members will not be eligible to receive universal service support, with one exception. Eligible health care providers participating in such a consortium may receive support, if the consortium is receiving tariffed rates or market rates, from those providers who do not file tariffs.

Who is eligible to receive universal service support?

- ◆ Only eligible telecommunications carriers, as defined in section 254(e) of the Order, are eligible to receive support for providing eligible telecommunications services to health care providers under section 254(h)(1)(A). Both eligible telecommunications carriers and telecommunications carriers that do not qualify as eligible telecommunications carriers under 254(e) may receive support for services provided to eligible health care providers under section 254(h)(2).

How do telecommunications carriers recover this lost revenue?

- ◆ A carrier that provides telecommunications services to eligible health care providers at reduced rates may recover through the universal service fund the difference, if any, between the rate for similar services provided to other customers in comparable rural areas of the state and the rate charged to the rural health care provider for such services.
- ◆ Carriers do not receive direct reimbursement for discounted services to health care providers, but rather receive the support through offsets to the amount they would otherwise have to contribute to federal universal service support mechanisms. Small carriers that do not contribute to universal service support mechanisms because they qualify for the *de minimis* exemption may receive direct reimbursement.

How does this relate to a telecommunications carrier's universal service obligation?

- ◆ The carrier providing the services is entitled to have an amount equal to the difference, if any, between the rates for services provided to health care providers for rural areas in a state and the rates for *similar services provided to other customers in comparable rural areas in that state* treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service.
- ◆ The rural rate shall be the average of the rates actually being charged to commercial customers, other than rates reduced by universal service programs, for identical or technically similar services provided by the carrier providing the service in the rural area in which the health care provider is located. Rates averaged to calculate the rural rate should exclude any rates reduced by universal service programs (schools and libraries).
- ◆ If there are no such tariffed or publicly available rates for such services in the rural area, or if the carrier considers the rate methodology described and applied to the carrier to be unfair for any reason, the carrier may submit, for the state commission's approval, regarding intrastate rates, or the FCC's approval, regarding interstate rates, a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner. The rate determined under this procedure should be supported and justified periodically, taking into account anticipated and actual demand for telecommunications services by all customers who will make use of the facilities over which services are being provided to eligible health care providers. State commissions are encouraged to review these proposed rates according to procedures and requirements similar to those used for establishing tariffed rates for telecommunications services in their states.

What about audits?

- ◆ Health care providers, as well as carriers, are required to maintain detailed records which shall be available for public inspection. Carriers must quantify and justify the amount of support for which members of consortia are eligible. A provider of telecommunications services to a health care provider participating in a consortium must establish the applicable rural rate for the health care provider's portion of the shared telecommunications services, as well as the relevant urban rate. Absent supporting documentation that quantifies and justifies the amount of universal service support requested by an eligible telecommunications carrier, the Administrator shall not allow that carrier to offset, or receive reimbursement for, the costs of providing services to rural health care providers participating in consortia.
- ◆ Health care providers should maintain their own records of use. Such records may be subject to an audit or examination by the Administrator or other state or federal agency with jurisdiction.
- ◆ Routine audits may be conducted, as well as audits resulting from suspicions of fraud or other illegal conduct.

Additional information available: www.fcc.gov www.psc.mt.gov/tcom
 www.fcc.gov/healthnet www.merit.edu/ www.neca.org/
 www.erols.com/naruc/stateweb.htm www.itc.org/edlinc/discounts/

406-444-6191 - Montana Public Service Commission

Service Date: April 30, 1997

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Commission's)	UTILITY DIVISION
Implementation of Senate Bill 89)	Docket N97.4.79

NOTICE OF INFORMAL MEETING

Senate Bill 89 became effective April 22. The new law extensively revises the Montana Telecommunications Act and provides mechanisms to implement the federal Telecommunications Act of 1996 in Montana.

In an effort to involve interested parties in our decision-making process as we begin to implement the provisions of the SB 89, the Montana Public Service Commission invites interested persons and representatives of the telecommunications industry and of various agencies and organizations with a stake in the implementation of SB 89 to participate in an informal discussion of the issues the Commission will decide as a result of the new law.

The informal meeting will be held from 9 a.m. until 5 p.m., Thursday, May 22, in the PSC's Bollinger Room, 1701 Prospect Avenue, Helena. The format will be a roundtable discussion. It would be helpful if participants had written comments on the issues available for distribution at the meeting.

Persons who will participate in the informal meeting should confirm their intent to attend by May 8. Electronic confirmation may be posted to tcom@psclist.mt.gov or written confirmation may be mailed to Dennis Crawford, PSC, PO Box 202601, Helena MT 59620-2601.

ISSUES

Issues on the meeting agenda to be addressed by participants include, but are not limited to:

Universal service

By May 8, the Federal Communications Commission will issue its order implementing the universal service provisions of the federal Telecommunications Act of 1996. To accomplish the law's universal service objective, the FCC will create a universal service fund to which every telecommunications carrier that provides interstate telecommunications service will be required to contribute. The fund will then be used to reimburse carriers for providing affordable service in high-cost areas and advanced services to qualifying beneficiaries at discounted rates. The FCC's universal service decision will affect Montana's telecommunications providers and their customers. It will also affect the Commission's implementation of SB 89. However, only the threshold universal service issues identified below will be addressed at the May 22 meeting. If in the future it is determined that a state USF fund is needed in Montana, the Commission will address at that time the nuts-and-bolts questions of setting up such a fund in accordance with SB 89.

- SB 89 requires the commission to establish and administer a state USF fund, but only pursuant to a determination of need. What procedure should the PSC use to determine whether the need exists for a Montana universal service fund?
- Designation of eligible telecommunications carriers.
- Establishing "service areas" for carriers other than rural telephone companies for the purpose of determining federal USF obligations and support.
- Establishing intrastate discounts to schools, libraries and health care providers and performing administrative functions necessary as a condition of federal universal service support if the discounts are recovered through the federal USF.
- Setting the discount for the Low Income Telephone Assistance Program, depending on what the FCC decides on this issue in its universal service order.
- Other issues that may arise from the FCC order that require state commission action.

Interim Universal Access Program

SB 89 directs the PSC to establish and administer a two-year, interim Universal Access Program to partially fund discounts on advanced telecommunications services to public access points in each Montana community, and to schools, libraries and health care providers. The PSC

will set the surcharge rate to be paid by all intrastate telecommunications carriers on their gross retail revenues in order to collect \$250,000 for the program in FY98 and \$500,000 in FY99. At the May 22 meeting, Commission staff will update meeting participants on the substance and status of the Universal Access Program rulemaking which will be under way by then.

Registration

SB 89 requires providers of telecommunications service in Montana to register with the PSC prior to providing service in the state. The PSC's electronic registration system is available for use and viewing on the PSC web site at www.psc.mt.gov/tcom. Registration issues include:

- Who should register? The Commission has concluded companies providing the following types of service must register: local exchange service, including local resale and telephone cooperatives; interexchange service, including resale; and commercial mobile radio, including cellular, mobile radio, paging, and personal communications service.
- Filing of initial tariffs or price lists for regulated services. The Commission has temporarily waived this registration requirement, pending a decision on what level of regulation to apply to the different carriers.
- What information should the Commission require upon registration?

Appropriate levels of regulation for different types of carriers

Montana law no longer exempts resale of telecommunications services from regulation and no longer requires equal regulation of carriers. The PSC must decide in what manner to regulate resellers, new entrants, competitive local exchange carriers, etc. The Commission tentatively concludes that different levels of regulation are appropriate for different types of carriers based on market power. For example, the Commission will not impose the same regulatory requirements on local resellers or competitive local exchange carriers as it does on incumbent local exchange carriers.

- What level of regulation is appropriate for each type of carrier?
- What procedure should the Commission use to set appropriate regulatory levels?

Other issues the PSC must resolve as a result of SB 89:

- Revising the existing PSC telecommunications rules to reflect the changes made by SB 89. See ARM sub-chapters 27 (Montana Telecommunications Act rules); 37 (interexchange carrier regulatory requirements); and 40 (arbitration and interconnection).
- Promotional pricing no longer requires advance commission approval, except for promotions offering basic local exchange access and packaged services that include basic local exchange access. For all other promotional offerings, carriers must file just informational price lists.

Update on HB 431, the anti-slamming law

HB 431 became effective April 21. The Commission will update meeting participants on the what the law requires and the status of our rulemaking to implement it.

THE MONTANA PUBLIC SERVICE COMMISSION

Dave Fisher, Chairman

Nancy McCaffree, Vice Chair

Bob Anderson, Commissioner

Danny Oberg, Commissioner

Bob Rowe, Commissioner



Montana Public Service Commission
1701 Prospect Avenue
PO Box 202601
Helena MT 59620-2601

July 7, 1997

For more information, contact:
Bonnie Lorang - 406-444-6191

PSC ADOPTS ORDER TO ALLOW MONTANA SCHOOLS & LIBRARIES TO APPLY FOR FEDERAL DISCOUNTS FOR TELECOMMUNICATIONS SERVICES

Montana's libraries and elementary and secondary schools should gear up now to take advantage of a first-come, first-served federal fund that will provide them with discounts ranging from 20 to 90 percent on telecommunications services beginning in 1998.

By adopting the same discount levels for intrastate telecommunications services that the Federal Communications Commission established for interstate services, the state Public Service Commission has taken the action required by the FCC to enable eligible Montana schools and libraries to apply for the discounts as soon as the program is up and running.

"It was in the interest of all Montanans, but especially our kids, that the commission act quickly to adopt the FCC discount levels so that Montana schools and libraries will be in a position to apply for the discounts as soon as possible," according to PSC Chairman Dave Fisher. "Now it's up to the schools and libraries in the state to take the required steps to obtain the discounts that are available."

The federal Telecommunications Act of 1996 guaranteed discounted rates on telecommunications services for libraries and K-12 schools. The FCC, the federal agency responsible for implementing the provisions of the Act, issued an order in May that established the discount program. The FCC expanded the existing federal "universal service fund" in order to make it available to support discounts for eligible schools and libraries on all commercially available telecommunications services, Internet access and internal connections. The federal fund can be used for intrastate discounts if the state adopts intrastate discount levels at least equal to the federal discounts, as the Montana PSC has done. The universal service fund is capped at \$2.25 billion per year.

TELECOMMUNICATIONS DISCOUNTS -- page 2

The level of discounts for public and private schools and libraries is based on the level of eligibility for the federal free and reduced-price school lunch program. Libraries will use the school lunch eligibility percentage for their local school districts. Economically disadvantaged schools and libraries and those located in rural areas will receive greater discounts.

Schools and libraries will be able to apply for discounts within the next month or so. The details of the application process are still being worked out by the FCC and the temporary fund administrator, the National Exchange Carrier Association. The FCC is still considering an effective date for telecommunications services eligible for discounts during the first year of the program. Actual fund disbursement begins January 1, 1998.

Montana schools and libraries should begin to prepare now so they can get their applications submitted as soon as possible after the application process begins because the discounts will be available on a first-come, first-served basis. Items that must be submitted to the fund administrator by applicants for the discounts include:

- A technology plan, including plans for training, hardware, software and having enough money to pay for the undiscounted portion of the institution's telecommunications costs after the discounts. Technology plans must be approved by the Office of Public Instruction for schools and by the Montana State Library for libraries.
- A description of the services sought.
- A self-certification of eligibility, including need-based eligibility.

The FCC also encourages schools and libraries to organize into groups of eligible partners to increase their purchasing power and make service even more affordable.

Persons interested in learning more about telecommunications discounts for schools and libraries should call the Public Service Commission at 406-444-6191, or visit the PSC's Internet website at www.psc.mt.gov.

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NOTE: THE ATTACHED SHEETS PROVIDE MORE DETAILED BACKGROUND INFORMATION